

**EXPLANATORY MEMORANDUM TO**  
**THE INVASIVE ALIEN SPECIES (ENFORCEMENT AND PERMITTING)**  
**(AMENDMENT) ORDER 2019**

**2019 No. 1213**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs ('Defra') and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 This instrument makes amendments to an existing instrument, the Invasive Alien Species (Enforcement and Permitting) Order 2019 ("the IAS Order").

*Explanations*

What is the amendment?

- 2.2 This instrument amends the coming into force date of the IAS Order from 1 October 2019 to 1 December 2019. See further section 6.

Why is this amendment needed?

- 2.3 The amendment ensures that there is sufficient time for a period of consultation on the Government's proposed management measures, firstly to give due consideration to the consultation responses, and secondly to allow sufficient time for a related licensing scheme to be put in place and communicated. See further section 6.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

- 4.1 The instrument has the same extent and application as the IAS Order which it amends. That instrument extends and applies to England and Wales; and to Scotland and Northern Ireland only in so far as it relates to controls on imports into and exports from the UK, or the offshore marine area.

**5. European Convention on Human Rights**

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **6. Legislative Context**

- 6.1 This instrument amends the coming into force date of the IAS Order from 1 October 2019 to 1 December 2019. It also makes a consequential change to the review provision (article 43) in that Order, changing the date by which the first report needs to be published from 1 October 2024 to 1 December 2024. It makes no other changes to the IAS Order.
- 6.2 This instrument amends the coming into force date of the IAS Order by two months. This is to ensure there is sufficient time for a period of consultation on the Government's proposed management measures for a number of widely spread invasive alien species, that there is then adequate time to give due consideration to the consultation responses, and to allow sufficient time for a related licensing scheme to be put in place and communicated to affected stakeholders. We are obliged to put in place these management measures, and consult on their preparation, under Regulation (EU) No. 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species ("the EU Regulation").
- 6.3 The IAS Order is a domestic instrument which, when it enters into force, will implement the EU Regulation.
- 6.4 A core provision of the EU Regulation is a list of species of Union concern. These are species where the adverse impacts are such that they require coordinated action across the EU. The Regulation applies strict restrictions on these species so they cannot be imported, kept, bred, transported, sold, used or exchanged, allowed to reproduce, or be grown, cultivated, or released into the environment. The EU Regulation will be converted into UK law when we exit the EU. We have a legal obligation under the EU Regulation to introduce an enforcement regime for infringements of its provisions, and the IAS Order contains an enforcement regime, and licensing and permitting provisions to meet this obligation.
- 6.5 This instrument uses the same powers as the IAS Order which it amends, namely section 2(2) of the European Communities Act 1972, and section 22(5) of the Wildlife and Countryside Act 1981. This instrument amends the IAS Order to change its coming into force date from 1 October 2019 to 1 December 2019. A small consequential change is made to article 43 (review: England) to align the timetable of the review obligation with the new coming into force date.

## **7. Policy background**

### *What is being done and why?*

- 7.1 This instrument is being made to:
- (i) Allow for a longer period of consultation on the Government's proposed management measures for widely spread species of Union concern in England and Wales. This is to ensure that the proposals are given suitable time for scrutiny by the public, and so that the public have adequate time to provide their responses to the consultation.
  - (ii) Allow for a longer period of time between the end of the consultation and the IAS Order coming into force. This is to ensure that there is sufficient time for a thorough and effective analysis of all evidence and views provided during the consultation before final management measures are adopted.

- (iii) Allow licensing bodies a longer period of time to develop an effective licensing regime. This would ensure that licences relating to management measures can be issued, where appropriate, as soon as the IAS Order comes into force. It will also ensure that information regarding the final regime can be communicated to stakeholders, so that they have time to prepare for any changes.

7.2 This instrument does not relate to withdrawal from the European Union.

## **8. European Union (Withdrawal) Act 2018/Withdrawal of the United Kingdom from the European Union**

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act 2018.

## **9. Consolidation**

9.1 None is planned.

## **10. Consultation outcome**

10.1 This instrument was not subject to formal consultation.

10.2 Defra has engaged with the Devolved Administrations, who support this proposed change. Defra has publicly communicated the change to stakeholders and the public and no concerns have been raised.

## **11. Guidance**

11.1 Whilst no specific guidance will be provided on this instrument, guidance on the IAS Order will be published in due course.

## **12. Impact**

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument. No full impact assessment was produced for the IAS Order as the measure was below  $\pm\text{£}5\text{m}$  equivalent annual net direct cost to business (“EANDCB”) threshold.

## **13. Regulating small business**

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 This instrument does not introduce new duties or burdens on business.

13.3 In regard to the IAS Order (which this instrument amends), action to mitigate the impact on small businesses, given their level of presence in the affected sectors, is not compatible with achieving a large part of the intended benefits of the measure. Further to this, there is no provision in the EU Regulation which would allow us to exempt small businesses from its application.

## **14. Monitoring & review**

14.1 The approach to monitoring of this legislation is through the course of normal departmental business as no substantive changes to current practices are being introduced.

## **15. Contact**

- 15.1 Finn Eaton at the Department for the Environment, Food and Rural Affairs  
Telephone: 0208 026 9268 or email: [Finn.Eaton@defra.gov.uk](mailto:Finn.Eaton@defra.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Richard Pullen, Deputy Director for Wildlife and Ivory at the Department for Environment, Food and Rural Affairs, can confirm that this explanatory memorandum meets the required standard.
- 15.3 Lord Gardiner, Parliamentary Under Secretary of State for Rural Affairs and Biosecurity at the Department for Environment, Food and Rural Affairs can confirm that this explanatory memorandum meets the required standard.